APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,050	12/08/2000	D. Maxwell Chickering	1018.121US1	6216

7590   06/06/2006

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EXAMINER
ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
3639	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Applicati n N .	Applicant(s)
Advisory Action *Before the Filing of an Appeal Bri f*	09/681,050	CHICKERING ET AL.
	Examiner	**Art Unit**	
	Akiba K. Robinson-Boyce	3639	

--The MAILING DATE of this c mmunication appears on the cover sheet with the c rrespondence address --

THE REPLY FILED <u>15 May 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

  a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

  b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

  (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

  (b)☐ They raise the issue of new matter (see NOTE below);

  (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

  (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

  The status of the claim(s) is (or will be) as follows:

  Claim(s) allowed: _____.

  Claim(s) objected to: _____.

  Claim(s) rejected: *1-11 and 13-30*.

  Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: As per claims 1, 9 and 28, the applicant argues that Grosser et al does not teach the aspects of the applicants' claimed invention, and specifically does not teach that any variables are set for each member to indicate which members are solicited or unsolicited. However, Grosser et al teaches that user choice inputs may trigger an unsolicited advocate opinion, when the user inputs show relatively large differences in one or more attribute values in the user's "short list" of choices and new user choice inputs triggers an unsolicited advocate opinion in Col. 5, lines 33-40. In this case the user is being represented by the advocate through user choice attributes, and the user's "short list" represents the variables used to indicate which advocate will produce an unsolicited opinion. In addition, Col. 5, lines 48-52 shows that users provides value parameters for triggering an advocate response to the user. These value parameters are representative of "variables" of the present invention. In addition, applicant argues that prior art used does not teach setting a purchase variable to a first value for each of the plurality of members of the solicitation and thenon-solicitation sub-population that made a purchase and to a second value for each of the plurality of members ofthe solicitation and the non-solicitation sub-populations that did n ot make the purchase. However, in Col. 5, lines 33-40, Grosser et al discloses a user that is being represented by the advocate through user choice attributes, and the user's "short list" represents the variables used to indicate which advocate will produce an unsolicited opinion. In this section, it is shown that users may input new user choices, which in this case, represents the second value. The applicant also argues that Grosser et al and Garg do not teach or suggest identifying hte sub-population to solicit and a non-solicited sub-population by using a computer-implemented decision theoretic model. However, in col. 20, lines 55-62, Grosser et al discloses applying systems theory to apply the rules to the database and user information analysis engine for implementing the computer-aided decision-making system. Grosser et al also discloses that the computer-aided decision-making system is implemented using a client-server model. However, it is the combination of Grosser et al and Garg that disclose this limitation. Specifically in Garg, col. 4 line 61-col. 5, line 4 discloses modeling firm interactions by assuming that the finance divisions make coordinated decisions, and discloses maximizing the firm's profits. Garg discloses this limitation in analogous art for the purpose of showing that the finance divisions make coordinated decisions so that the Finance division allocates working capital in order to maximize the firm's profits. As pr claims 2-8, 11, 12-27, 29, and 30, the applicant argues that the combination does not teach or suggest setting the solicitation variable to the first value for each of a plurality of members of the solicitation group and setting the purchase variable to the first value for each of the plurality of members of the solicitation and the non-solicitation groups that made a purchase and to the second value for each of the plurality of members of the solicitation groups that did not make the purchase,...and applying the decision tree against the population to identify the sub-population to solicit to maximize the expected increase in profits. However, the applicant argues these claims for reasons similar to those of claim 1, and the rejection of these claims are therefore maintained for the same reasons as discussed above with respect to claim 1. As per claim 10, the applicant argues that the combination of Grosser et al, in further view of Garg, and further in view of Cooper fails to disclose the limitations of claim 10 for reasons similar to those of claim 1. The rejection of claim 10 is therefore maintained for reasons similar to those of claim 1..